

The section is a fusion of the section that was passed in the legislative branch, and a section that was passed in the local government branch. The very last few lines of the section, if you would turn over to them on page 9, was the language that was put in by the Committee on the Legislative Branch, and their recommendation was that the General Assembly shall pass no special law when a general law is applicable.

Style, Drafting and Arrangement changed that to read in the way that it does on page 9, beginning there on line 13:

"This section shall not be construed to limit any power of the General Assembly otherwise existing under this Constitution to enact special laws except that a special law shall not be enacted for any situation for which a general law is applicable."

Now, this amendment is addressed to the words "is applicable." The thought that Delegate Boyles has is that a special law could not be enacted if there was a general law in existence that was inapplicable.

He felt that was too narrow, and that he wanted the language broadened to mean that a special law could not be enacted where any general law was applicable, or could be made applicable. The idea is to further make sure that the General Assembly does not enact special legislation if it would be possible to achieve the same thing by a general law.

DELEGATE JAMES (presiding): Delegate Gallagher.

DELEGATE GALLAGHER: Mr. President, and ladies and gentlemen, I would be required to oppose this change, because this is not the language of the Committee. However, I do not want to say that the amendment is not without merit, because it is.

The Present Constitution—

DELEGATE JAMES (presiding): You mean it is not without merit?

DELEGATE GALLAGHER: That is correct.

The present Constitution does provide in Article III, section 33, with respect to this subject matter, that the General Assembly at its first session after the adoption of this Constitution shall pass general laws providing in the cases enumerated in this section which are not already adequately provided for, and for all other cases where a general law can be made ap-

plicable. So, it was the intention of the framers of the 1867 Constitution to get as much general law on the books as possible, and to fairly limit the ability of the General Assembly to pass special laws.

The Model constitution, if my memory serves me correctly, also uses the "can be made applicable," rather than the "is applicable" test for general law. I do not think the adoption of this amendment would do violence to the Committee Report.

DELEGATE JAMES (presiding): A point of inquiry: Under the present law certain types of corporations can be created by the General Assembly by special law, that is, provided that the general laws do not accommodate the particular type of corporation that you are correcting by special law.

Now, if this were adopted would it not really completely eliminate the ability of the General Assembly to create a special type of corporation for any purpose?

DELEGATE GALLAGHER: I would think that if a general law could be passed to take care of the kind of situation which the act of the legislature seeking to create a new corporation would accomplish, then the legislature would be prohibited from passing such an act under the proposed amendment.

DELEGATE JAMES (presiding): Is it not possible to state that there is no situation that cannot be taken care of by general law?

DELEGATE GALLAGHER: That is where we used the word "if the general law is applicable". If it is a situation which required general law, it would be easier to pass a general law rather than to ask yourself each time if this particularly proposed special law can possibly be put under the canopy of some general law which does not exist, but which the legislature could pass.

I was happier with the language that came out of the Committee. I am just pointing out that the proposal is not one which is unknown to state constitutions, and it has been used elsewhere. I am going to vote against it, but I want to say that it has some obvious merits.

DELEGATE JAMES (presiding): Any further discussion?

Delegate Adkins.

DELEGATE ADKINS: Mr. President, I wonder if the Chairman of the Committee would yield to a further question along the lines of inquiry that the Chair was putting?